Calendar No. 765

100TH CONGRESS
2d Session

SENATE

REPORT
100-403

ESTABLISHMENT OF GRAYS HARBOR NATIONAL WILDLIFE REFUGE

JUNE 27, 1988.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1979]

The Committee on Environment and Public Works, to which was referred the bill (S. 1979) to establish the Grays Harbor National Wildlife Refuge, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

GENERAL STATEMENT

This legislation authorizes the establishment of a National Wildlife Refuge in the State of Washington to protect wetlands of critical importance to migratory shorebirds and other fish, wildlife and plant species. The Secretary of the Interior is authorized to acquire lands and waters by purchase from the City of Hoquaim, Washington, and by purchase or transfer, or both, of lands and waters from the Port of Grays Harbor, Washington.

PURPOSE AND BACKGROUND

The bill would establish an 1,800-acre National Wildlife Refuge in the Bowerman Basin area of Grays Harbor, which is a 94-square mile estuary on the coast of the State of Washington. The Bowerman Basin area provides habitat for waterfowl and more than 20 species of shorebirds during spring and fall migration and over the winter. Peregrine falcons, a species listed as endangered under the Endangered Species Act, utilize the area that would be established as a refuge under this bill.

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Grays Harbor also is important to the economy of the surrounding area, which is heavily dependent on industry and marine commerce. Since 1976 the Grays Harbor Regional Planning Commission, local governments, the Port of Grays Harbor, the Washington State Department of Ecology, Department of Game, Department of Fisheries and Department of Natural Resources, the EPA, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have worked to develop a Grays Harbor Estuary Management Plan (Plan) that addresses resource protection and development in Grays Harbor. No final plan has been approved as of this date.

Most of the Bowerman Basin area that would be established as a unit of National Wildlife Refuge System by this legislation currently is owned by the Port of Grays Harbor. Under the present version of the Plan, the Bowerman Basin area would continue to be owned by the Port but would be designated a natural conservancy. The Plan provides for the transfer of ownership to the State of Washington or the Federal Government in piecemeal fashion as needed to compensate for impacts from water dependent activities by the Port of Grays Harbor under section 404 of the Clean Water Act.

In place of the Plan, S. 1979 formally designates the area as a National Wildlife Refuge, owned and managed by the U.S. Fish and Wildlife Service. To ensure adequate protection and management of the area, the bill requires that the 1,711 acres of Bowerman Basin lands and waters be transferred by or purchased from the Port within three years after enactment of the legislation.

Section-by-Section Analysis

SECTION 1. FINDINGS

Section 1 of S. 1979 sets forth the findings of the Congress that (1) the Grays Harbor estuary is of critical importance to migratory shorebirds and waterfowl and provides important habitat for many species of fish and other wildlife; (2) the Bowerman Basin tidal mudflats within the estuary attracts hundreds of thousands of migratory shorebirds during spring and fall as well as peregrine falcons and other raptors; (3) the Bowerman Basin provides extraordinary recreational, research and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped and others; (4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and (5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by the Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SECTION 2. PURPOSES

This section of the bill sets forth the major purposes for which the Grays Harbor National Wildlife Refuge is established. These purposes are (1) to conserve fish and wildlife populations and their habitats; (2) to fulfill international treaty obligations of the United States with regard to fish and wildlife and their habitats; (3) to con-

serve those species known to be threatened with extinction; and (4) to provide opportunities for wildlife-oriented recreation, education and research that are consistent with the first three purposes.

Under the National Wildlife Refuge System Administration Act of 1966, prior to permitting the use of any area within the refuge, the Secretary of the Interior must determine that such use is compatible with the purposes for which the refuge was established. This section sets forth those purposes.

SECTION 3. DEFINITIONS

Section 3 of S. 1979 defines several terms used in the bill. The term "refuge" means the Grays Harbor National Wildlife Refuge. The term "lands and waters" includes interests in lands and waters. The term "Secretary" means the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service.

SECTION 4. ESTABLISHMENT OF REFUGE

Subsection (a) of section 4 of the bill authorizes and directs the Secretary to establish a unit of the National Wildlife Refuge System to be known as the Grays Harbor National Wildlife Refuge. This subsection also provides that the authorized boundaries of the refuge shall include the approximately 1,800 acres in the State of Washington that are depicted generally on a December, 1987, map titled "Grays Harbor National Wildlife Refuge". Copies of this map must be available for public inspection in the office of the Director of the U.S. Fish and Wildlife Service in Washington, DC, and in the Service's offices in the State of Washington.

Subsection (b) of this section of the bill authorizes the Secretary to make minor revisions in the boundaries of the refuge in order to implement the purposes of the refuge and to facilitate the acquisition of property for the refuge. The intent of this provision is to provide the Secretary with flexibility and authority to acquire property from willing sellers that lies partially, but not wholly, within the boundaries of the refuge as delineated on the map referred to in subsection (a) of section 4.

Subsection (c)(1) of section 4 requires the Secretary, within three years from the date of enactment of this legislation, to acquire approximately 1,711 acres of lands and waters from the Port of Grays Harbor. These lands and waters are identified generally as Management Unit 12, Area 1 in the Grays Harbor Estuary Management Plan of January 1986. In complying with this provision the Secretary may acquire the lands and waters specified by means of (1) purchase under the authorization provided by section 6 of the bill; (2) transfer under the provisions of subsection (c)(2) of this section; or (3) a combination of purchase and transfer.

Subsection (c)(2) provides that under certain conditions, the appropriate Federal agencies may consider the transfer of any lands and waters to the Secretary under paragraph (1) of this subsection as compensation to satisfy, in whole or in part, obligations resulting from water-dependent activities by the Port of Grays Harbor that have been proposed pursuant to section 404 of the Clean Water Act. The U.S. Army Corps of Engineers and the Environmental Protection Agency regulate the discharge of dredged or fill

material into wetlands and other waters of the United States under this Clean Water Act provision. The appropriate Federal agencies referred to in this subsection are these two agencies and the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

The conditions on the consideration of any transfer of lands and waters as compensation to satisfy mitigation obligations incurred by the Port of Grays Harbor under section 404 are threefold. First, the obligations must result from water-dependent activities. Second, there must be no practicable alternatives to such water-dependent activities which would have less adverse impact on the aquatic ecosystem. Third, appropriate and practicable steps must be taken to minimize, rectify and reduce adverse impacts to the aquatic ecosystem from those water-dependent activities which can not be avoided.

These conditions are the same as those that must be met by any applicant under the December 24, 1980, section 404(b)(1) Guidelines (40 C.F.R. Part 230) prior to issuance of a permit by the Corps of Engineers. They require the sequential consideration of steps to (1) avoid impacts; (2) minimize, rectify, and reduce over time impacts that cannot be avoided; and (3) compensate for any remaining impacts. This stepwise mitigation process is intended to ensure that an offer to construct, enhance or transfer ownership of wetlands by the Port of Grays Harbor or any permit applicant to compensate for the effects of a requested discharge does not obviate or interfere with permit evaluation under the alternatives analysis of the 404(b)(1) Guidelines.

Discharges into special aquatic sites, including wetlands, must be the least damaging practicable alternative. Additionally, alternatives to non-water dependent activities that do not involve special aquatic sites are presumed to be available and less damaging. Such an analysis of alternatives and rebuttal of presumptions must take place regardless of the degree or nature of compensation offered by an applicant.

By ensuring that the consideration of any transfer of lands and waters as compensation does not facilitate the loss of wetlands, subsection (c)(2) is consistent with the intent of section 404 to protect wetlands in their natural state.

The Secretary, in conjunction with the Secretary of the Army, the Administrator of the Environmental Protection Agency and the Secretary of Commerce, is expected to negotiate an agreement with the Port of Grays Harbor to implement this subsection and subsection (c)(1) prior to any transfer of lands and waters to the Secretary.

The agreement should result in the Secretary acquiring title to the lands and waters in question within three years. The agreement should provide the Port with options related to the transfer or sale of these lands and waters, including a mechanism for establishing whether compensation is appropriate for specific Port projects. Those options should include at least three options, which are identified below, and possible combinations of these options.

First, the Port of Grays Harbor may have obligations to provide compensation for the impacts resulting from past filling of wet-

lands in the Grays Harbor estuary. Such obligations could be satisfied by the transfer authorized in this legislation.

Second, on-site or off-site mitigation may be either inappropriate or insufficient to offset impacts for future fill proposals. Additionally, long lead times may be required to bring development proposals to the point where requirements for specific on-site mitigation, off-site mitigation or compensation can be identified. Therefore, a mechanism should be set up in the agreement to provide the Port with an opportunity to develop specific project proposals for which the transfer of lands and waters could be considered as compensation to satisfy section 404 obligations.

The Secretary is the agent responsible for negotiating any transfer of lands and waters from the Port of Grays Harbor for establishment of the refuge. As such, he must work closely with other Federal officials who have responsibilities under section 404 of the Clean Water Act, specifically, the Administrator of the Environmental Protection Agency and the Secretary of the Army, to ensure that no such transfer is considered to be compensation under subsection (c)(2) unless the activities giving rise to the obligations are first determined to be in compliance with the requirements of this subsection and the section 404(b)(1) Guidelines.

Third, if consideration of the transfer as compensation is not necessary or appropriate for any specific project proposals, if any proposed consideration is not acceptable to the Port, or if no specific project proposals are developed, then the Port could be allowed to request, subject to appropriations, cash payment for their property. In this circumstance, the Secretary should transmit an appropriation request to the Congress for such sums as may be necessary, as authorized by section 6 of this legislation.

Subsection (c)(3) of section 4 of the bill authorizes the Secretary to acquire up to 68 acres of lands and waters within the boundaries of the refuge that are owned by the City of Hoquiam and to compensate the lessees on such lands and waters for the costs of improvements and relocation. The purpose of this compensation is to ensure that the city's lessees are dealt with equitably in the establishment of the refuge. The U.S. Fish and Wildlife Service has indicated that the structures built by the lessees may be used as a visitor's center or as other refuge facilities.

The Secretary is expected to exercise the authority provided by subsection (c)(3) unless he determines that the acquisition of the lands and waters in question is not necessary to ensure the biological integrity of the refuge and to fulfill the purposes for which the refuge was established.

SECTION 5. ADMINISTRATION

Subsection (a) of section 5 of S. 1979 requires the Secretary to administer all the lands and waters and interests in lands and waters that are acquired under this legislation in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966. Under the Refuge Administration Act, prior to permitting the use of any area within the refuge, the Secretary of the Interior must determine that such use is compatible with the purposes for

which the refuge was established. Section 2 of this bill sets forth these purposes.

Subsection (b) of this section authorizes the Secretary to use additional statutory authority, as appropriate and to the extent consistent with subsection (a), to carry out the purposes of the refuge through the conservation of fish, wildlife and natural resources and the development of outdoor recreation and interpretative education opportunities. This additional authority includes, but is not limited to, the Endangered Species Act, the Migratory Bird Conservation Act, the Migratory Bird Treaty Act, and the Refuge Recreation Act.

With respect to the Secretary's authority under this legislation, concerns have been expressed that establishment of the Grays Harbor National Wildlife Refuge in an area of existing industrial and marine commercial uses may adversely affect such activities on lands contiguous to the refuge. In that regard, it is noted that while the Secretary is expected to carry out his duties to protect the fish, wildlife and habitat of a refuge, designation of Grays Harbor National Wildlife Refuge does not establish or authorize the creation of protective buffer zones around the refuge. Nor is anything in such designation intended, of itself, to preclude otherwise lawful activities or uses in the area surrounding the refuge.

Subsection (c) of section 5 requires that the Secretary prepare a management plan for the development and operation of the refuge within 18 months after the enactment of this legislation. This plan is to include provisions related to (1) the construction of year-around visitor center with special emphasis in interpretative education and research; (3) parking and other necessary facilities, and (4) a comprehensive plan that sets forth priorities and strategies for management of the refuge. The primary goal of the management plan required by this subsection is the fulfillment of the purposes of the refuge, which are set forth in section 2 of this legislation.

Subsection (c) also requires that the Secretary provide an opportunity for public participation in the development of the management plan. In carrying out this provision, the Secretary should seek the participation of other federal agencies, affected state and local governments, regional public authorities and interested members of the general public.

SECTION 6. AUTHORIZATION OF APPROPRIATION

This section authorizes appropriations to the Department of the Interior to carry out the provisions of the legislation. Such sums as may be necessary are authorized for the acquisition of the approximately 1,711 acres owned by the Port of Grays Harbor, which are referred to in section 4(c)(1). Appropriations not to exceed $2.5 million are authorized to acquire the lands and waters owned by the City of Hoquiam, to compensate the lessees on such lands, and to carry out the other provisions of this legislation.

SECTION 7. REFUGE DEVELOPMENT FUND

Section 7 of the bill directs the Secretary to ask the National Fish and Wildlife Foundation to take those measures that the

Foundation deems appropriate to encourage, accept and administer private gifts of property to further the purposes of this legislation. The Foundation may wish to establish an account for this purpose, or it may wish to work with other non-profit organizations to assist one of those organizations in fulfilling the purposes of this section. While the Foundation has great latitude under the provisions of this section, including the latitude to decline the request by the Secretary, it is hoped that the Foundation will be able to provide some such assistance in furthering the purposes of the refuge.

Section 7 also requires the Secretary to give special consideration to the means by which local public and private entities can participate and contribute in developing and implementing the management plan required under section 5(c). This provision, however, shall not be applied or interpreted as requiring or allowing the Secretary to relinquish his responsibilities for administering, managing and protecting the refuge and its resources.

SECTION 9. EFFECTIVE DATE

This section establishes the effective date of the legislation as the date of enactment.

HEARINGS

The Subcommittee on Environmental Protection of the Committee on Environment and Public Works held a hearing in Washington, D.C., on February 25, 1988.

Testimony was received from Senators Adams and Evans and Representative Bonker of Washington and representatives of the U.S. Fish and Wildlife Services, the Environmental Protection Agency, the Port of Grays Harbor, the City of Hoquiam, Washington, the Wilderness Society and the Northwest Office of Friends of the Earth.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

The bill was ordered reported on April 22, 1988, by unanimous voice vote.

REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate require the Committee to evaluate the regulatory impact of the reported bill.

It is not anticipated that this bill will impose any significant new regulatory burden.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 10, 1988.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1979, a bill to establish the Grays Harbor National Wildlife Refuge, as ordered reported by the Senate Committee on Environment and Public Works, April 22, 1988. CBO estimates that the enactment of this bill would cost the federal government $2.5 million in up-front acquisition and development expenses over the 1989–1991 period, plus ongoing expenditures of less than $100,000 per year beginning in fiscal year 1990.

S. 1979 would direct the Secretary of the Interior to establish the Grays Harbor National Wildlife Refuge, to be composed of approximately 1,800 acres of wetlands and open water in the State of Washington. The bill would require the purchase or acceptance of 1,711 acres owned by the Port of Grays Harbor and would authorize the appropriation of whatever sums are necessary for such acquisition. While preliminary U.S. Fish and Wildlife Service (USFWS) assessments indicate a possible purchase price of $1.2 million for this acreage, CBO expects that the agency would be able to acquire it at no cost to the federal government. This land cannot be developed and is currently slated by the Port to be maintained as a conservation preserve at its own expense or donated to the USFWS as part of the Port's efforts to meet mitigation requirements under Section 404 of the Federal Water Pollution Control Act. Therefore, the property could probably be acquired at little or no cost. Even if this land must be purchased, its ultimate price would be determined by a certified appraisal and would most likely reflect the experiences of other wetlands conservationists in the state who have purchased similar acreage at prices well below those assumed in USFWS preliminary estimates.

The Secretary would also be authorized to acquire an additional 68 acres owned by the city of Hoquiam. For this and other expenses (including the compensation and relocation of lessees as well as for refuge development required under Section 5), the bill would authorize additional appropriations of up to $2.5 million. Assuming full funding, CBO estimates that the USFWS would spend all of this amount in fiscal years 1989 through 1991.

It is possible that the $2.5 million would not be sufficient to fully implement the required management plan. Specifically, Section 5 would require the refuge management plan to include the construction of walkways and other facilities as well as a year-round visitor center suitable for research and education purposes. The resulting need for high ground would probably necessitate the purchase of upland city property. If so, the agency would incur additional costs of about $1 million (including land purchases and payments required under the Uniforms Relocation Assistance Act), in addition to the mandated refuge development program that the agency estimates would cost $2.2 million. Local contributions may provide ad-

ditional resources, although these are not expected to be significant.

Once refuge land is acquired and developed, ongoing expenses are expected to be less than $100,000 per year. Such costs would be incurred for routine operating and maintenance activities as well as for payments under the Refuge Revenue Sharing Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee reports that the bill makes no changes in existing law.

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Calendar No. 769

100TH CONGRESS
2d Session

SENATE

REPORT
100-405

ASBESTOS IN SCHOOLS AMENDMENT ACT OF 1988

JUNE 28, 1988.—Ordered to be printed

Mr. BURDICK, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2024]

The Committee on Environment and Public Works, to which was referred the bill (S. 2024) to amend the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519, to extend certain deadlines, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

GENERAL STATEMENT

This legislation provides for a temporary deferral of the October 12, 1988 deadline for the submission of management plans under the Asbestos Hazard Emergency Response Act to June 9, 1989.

PURPOSE AND BACKGROUND

The Asbestos Hazard Emergency Response Act of 1986 (AHERA) established a comprehensive program for identifying the presence of asbestos in the nation's elementary and secondary schools and requiring that appropriate measures be taken to mitigate the hazard posed to students and school employees.

The Act requires that local education agencies complete inspections for asbestos and submit asbestos management plans to State Governors by October 12, 1988. Local education agencies are required to begin implementation of the management plans by July 9, 1989. A key element of AHERA requires that inspectors, management planners and contractors be accredited in accordance with Environmental Protection Agency (EPA) standards.

Soon after EPA published final AHERA regulations last October, it became apparent that in certain areas of the country a shortage

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of accredited inspectors would be an impediment to many schools in meeting the October 12, 1988 deadline for completion of asbestos inspections. Accordingly, several legislative measures were introduced to extend the October deadline and the July 9, 1989 management plan implementation deadline.

In a hearing before the Subcommittee on Hazardous Wastes and Toxic Substances last March, a diversity of views were expressed about the actual need for extension of the deadlines and the approach to be followed if a deadline extension were adopted. Subsequent to the hearing several organizations representing school administrators, parents and school employees developed an outline of alternative legislation providing a conditional extension of the deadline for completing inspections and submitting management plans to State Governors. This outline served as the basis for legislation reported by the Committee.

SECTION-BY-SECTION ANALYSIS

Sec. 205A. Deferral of Submission of Management Plans.—This section sets forth the conditions and procedures for obtaining an extension of the October 12, 1988 deadline for submission of management plans.

Subsection (a). *Deferral Requests.*—This subsection authorizes a local education agency (LEA) to apply to the Governor for a temporary extension of the October 12, 1988 deadline to no later than June 9, 1989. LEAs seeking a deadline deferral must apply to the Governor for an extension by September 22, 1988. Governors are required to approve or deny deferral requests and notify the LEAs in writing of the determination within 20 days of receipt. Denials are to be issued only if required information does not accompany the request.

Subsection (b). *Deferral Requirements.*—This subsection details the documentation to accompany a deferral request. A deferral request must be accompanied by either a statement that the State has sought a waiver under section 203(m) of AHERA or by (1) a statement of the reasons a deferral is needed; (2) a statement assuring that one or more documents demonstrating actions the LEA has taken toward meeting the requirements is available to the public; (3) a statement demonstrating that the LEA has notified parent, teacher, and school employee organizations of the deferral request and in the case of public schools included the deferral on the school board meeting agenda; (4) a schedule for completing elements of the management plan, including contracting for inspections no later than December 22, 1988.

Subsection (c). *Availability.*—This subsection requires that deferral requests be available for public inspection in the local education agencies administrative offices and the schools included in the deferral request.

Subsection (d). *Public Meeting and Notification.*—This subsection requires that prior to filing a request for a deferral, LEAs notify parent, teacher and employee organizations of the request and in the case of public schools include the deferral request on the school board meeting agenda. Governors are required to report in writing to the Environmental Protection Agency by November 12, 1988 on

the status of management plan submission for LEAs within the State and furnish that information to the LEAs.

Subsection (e). *Plan Submission and Review.*—This subsection requires that LEAs submitting plans under an approved temporary deferral do so by June 9, 1989. Current plan review procedures will apply to plans submitted under deferrals.

Subsection (f). *Plan Implementation.*—This subsection clarifies that management plans submitted under deferrals are subject to the implementation deadline in current law—July 9, 1989.

Subsection (g). *EPA Notification.*—This subsection requires EPA to publish notice of the opportunity to apply for a deadline deferral in the Federal Register within 15 days of enactment.

Section 205B. Approved Training Courses.—Current law requires EPA to publish a list of EPA approved training courses for inspectors, management planners, and abatement worker and contract personnel. This section requires that EPA publish this list monthly, beginning July 1, 1988.

Section 205C. Worker Protection.

Subsection (a). *Cease Work.*—This subsection clarifies that LEAs may not undertake building material removals or renovations (other than emergency repairs) in the absence of approved management plans or inspection assessments consistent with AHERA requirements.

Subsection (b). *Operation and Maintenance.*—This subsection codifies applicable regulations with respect to operation and maintenance activities undertaken before a management plan has been approved.

Subsection (c). *Emergency Repairs.*—This subsection clarifies that any employee must receive proper training and equipment before being directed to carry out emergency repairs or operation and maintenance activities.

Section 3. Enforcement.—This section makes conforming changes to enforcement provisions of current law. A LEA is subject to civil penalties if it knowingly submits false information to the Governor in applying for a temporary deferral for management plan submission.

Section 4. Authorization Extension.—The current authorization for appropriations for the asbestos abatement loan and grant program under the Asbestos School Hazard Abatement Act expires at the end of fiscal year 1990.

This section extends the authorization of appropriations for the asbestos abatement program through fiscal year 1992 at $100,000,000 annually, the current level.

HEARINGS

The Subcommittee on Hazardous Wastes and Toxic Substances of the Committee on Environment and Public Works held a hearing in Washington, D.C., on March 15, 1988 on the implementation of the Asbestos Hazard Emergency Response Act.

Testimony was received from members of Congress, representatives of the Environmental Protection Agency, State school administrators, and organizations representing school employees, parents and industry.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

The bill was ordered reported on June 23, 1988, by unanimous voice vote.

REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate require the Committee to evaluate the regulatory impact of the reported bill.

It is not anticipated that this bill will impose any significant new regulatory burden.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 28, 1988.

Hon. QUENTIN N. BURDICK,
Chairman Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2024, the Asbestos in Schools Amendment Act of 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2024
2. Bill title: Asbestos in Schools Amendment Act of 1988.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, June 23, 1988.
4. Bill purpose: S. 2024 would allow local educational agencies (LEAs) to request a deferral until June 9, 1989 for submission of asbestos management plans required by the Asbestos Hazard Emergency Response Act. The bill requires the LEAs requesting such deferrals to file their requests with the state governor by September 22, 1988. The bill states that granting of a deferral for submitting a management plan does not relieve a LEA from the requirement of beginning implementation by July 9, 1989.

In addition, S. 2024 authorizes the appropriation of $100 million for each of fiscal years 1991 and 1992 for the asbestos abatement

loan and grant program. The bill also requires a number of actions by the Environmental Protection Agency (EPA), states, and LEAs.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	(1)	(1)	100	100	(1)
Estimated outlays	(1)	(1)	25	100	75

[1] Less than $500,000.

The costs of this bill fall within budget function 300.

Basis of estimate: For purposes of the estimate, we assumed enactment of this bill by the beginning of fiscal year 1989 and appropriation of the authorized amounts. Estimated outlays are based on information provided by EPA and historical experience with the program.

Within 15 days after enactment, the EPA would be required to publish in the Federal Register notice of the opportunity to request deferrals. The agency would also be required to publish monthly and make available a list of all approved training courses for accreditation. These activities are estimated to cost $100,000 to $300,000 a year.

6. Estimated cost to State and local governments: Under S. 2024, states would be required to respond to those LEAs submitting requests for deferral within 20 days. States would also be required to submit to the EPA by November 12, 1988 written notification of the status of management plan submissions and deferral requests.

Based on information provided by officials from eight states, we estimate that some states would require additional resources to process and respond to deferral requests, but most would accommodate these changes within existing resources. Almost every state surveyed indicated that submitting a statement on management plan submissions and deferrals to EPA would involve no significant additional cost, unless the state had to track down parochial schools that failed to submit plans.

LEAs filing deferral requests would be required to notify interested organizations and submit a statement of past and future asbestos management actions with the deferral request. Based on information provided by the National School Boards Association, we estimate that the cost to school districts of filing a deferral request would generally be minimal if done in-house, but could be higher if done on contract.

7. Estimate comparison: On June 27, 1988, CBO transmitted a cost estimate to the House Committee on Energy and Commerce on H.R. 3893, a companion bill to S. 2024. The estimates for these two bills differ because of differences in the bills, primarily the authorization of appropriations in the Senate bill, and the progress reporting system required in the House bill.

8. Previous CBO estimate: None.

9. Estimate prepared by: Carol Cohen.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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